



Report to the Auburn City Council

Action Item
Agenda Item No. 6
City Manager's Approval

To: Honorable Mayor and City Council Members
From: Michael G. Colantuono, City Attorney
Date: June 25, 2012
Subject: Amendment of City Ordinance Governing Claims Against the City –
Second Reading

The Issue

Shall the City Council adopt an Ordinance to update the City's claiming ordinances by amending Section 33.115 of the City of Auburn Municipal Code regarding claims against the City?

Conclusions and Recommendations

Waive full reading and adopt an ORDINANCE to amend Section 33.115 of the Auburn Municipal Code regarding claims against the City.

Background

The California Supreme Court recently decided *Ardon v. City of Los Angeles* regarding claiming procedures and there is now some uncertainty as to the scope of power the Government Claims Act gives the City to provide claiming procedures. In light of *Ardon*, however, I recommend this amendment to clarify that the City's claiming requirements are authorized not only by the Government Claims Act, but by the California Constitution and other law.

The first reading of this ordinance was June 11, 2012 and will be published within 15 days of adoption as required by law.

Fiscal Impact

The resources to prepare this ordinance and staff report are budgeted. To the extent this amendment preserves the City's power to establish procedures for claims against it, it may prevent significant liabilities and therefore have a beneficial fiscal impact.

Attachment - Amended Claiming Ordinance

ORDINANCE NO. 12-

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF AUBURN AMENDING
THE AUBURN MUNICIPAL CODE REGARDING CLAIMS AGAINST THE CITY

THE CITY COUNCIL OF THE CITY OF AUBURN DOES ORDAIN AS FOLLOWS

Section 1. Code Amendment. Section 33.115, Subsection (A) of the Auburn
Municipal Code is hereby amended to read as follows:

“(A) Authority

This ordinance is enacted pursuant to the city’s authority under the
Constitution and laws of the state of California, including but not limited to
California Constitution article XI, sections 7 and 9, and sections 935 and
37100.5 of the California Government Code.”

Section 2. Code Amendment. Section 33.115, Subsection (C) of the Auburn
Municipal Code is hereby amended to read as follows:

“(C) Form of Claim

All claims shall be made in writing and verified by the claimant or by his
or her guardian, conservator, executor or administrator. In addition, all claims
shall contain the information required by California Government Code Section
910. The foregoing reference to Government Code Section 910 shall not be
construed to authorize a class claim or a representative claim, and no claim
may be filed on behalf of another person or a class of persons unless verified
by such other person(s) and each member of any purported class.”

Section 3. Severability. Should any provision of this Ordinance, or its application to any person or circumstance, be determined by a court of competent jurisdiction to be unlawful, unenforceable or otherwise void, that determination shall have no effect on any other provision of this Ordinance or the application of this Ordinance to any other person or circumstance and, to that end, the provisions hereof are severable.

Section 4. Construction. To the extent the provisions of the Auburn Municipal Code as amended by this Ordinance are substantially the same as previous provisions of that Code, they shall be construed as continuations of those prior provisions and not as new enactments. The provisions of this Ordinance are intended to be declaratory of existing law.

Section 5. Certification. The City Clerk shall certify to the passage and adoption of this Ordinance and shall cause the same to be published according to law.

PASSED, APPROVED AND ADOPTED, this 25th day of June 2012.

Kevin Hanley, Mayor

ATTEST:

Joseph G. R. Labrie, City Clerk

1 I, Joseph G. R. Labrie, City Clerk of the City of Auburn, hereby certify
2 that the foregoing ordinance was duly passed at a regular meeting of the City
3 Council of the City of Auburn held on the 25th day of June, 2012 by the
following vote on roll call:

4 Ayes:

5 Noes:

6 Absent:

7 _____
Joseph G. R. Labrie, City Clerk

8
9 APPROVED AS TO FORM:

10
11
12 _____
13 Michael G. Colantuono, City Attorney